

## **REMARKS**

### Amendments to the Drawings

Applicants submit replacement Figures 11a, 13b, 15, 16b, 18b, and 22.

### Status of Claims

Claims 15-37 are pending in the present application. Claims 1-14 and 38-44 were cancelled without prejudice or disclaimer. Applicants reserve the right to pursue the cancelled or original unamended claims at a later date.

### Claim Rejections under 35 U.S.C. § 102

The Final Office Action rejected Claims 15, 16, 18-24, 26-28, 31-33, and 37 as allegedly being anticipated by Lockwood and, for certain claims, Lockwood and Risk. Applicants respectfully traverse this rejection for the following reasons.

At the outset, Applicants respectfully disagree with the Final Office Action's incorporation of Risk into Lockwood for analysis under 35 U.S.C. § 102. Multiple references can be used to prove that the primary reference contains an enabled disclosure, explain the meaning of a term used in the primary reference, or show that a characteristic not disclosed in the reference is inherent. M.P.E.P. § 2131.01. The Final Office Action fails to establish that Risk is used for any of these enumerated purposes. Accordingly, the Final Office Action improperly applies multiple references in making rejections under 35 U.S.C. § 102.

### Claim 15

The Final Office Action fails to establish that Lockwood identically teaches every element of Claim 15. As the Final Office Action recognizes on page 11, Lockwood does not disclose a regulator configured to be operable *during simultaneous aspiration and irrigation*. Indeed, Lockwood discloses "permit[ting] irrigation of bandage 410 and wound surface 413 simultaneously with the operation of the vacuum source 16" by connecting the vent line to the irrigation source. Lockwood [0166]. The vent line is no longer in communication with the surrounding atmosphere during simultaneous aspiration and irrigation. Accordingly, the Final

Office Action fails to establish that Lockwood discloses or suggests, *inter alia*, “wherein fluid moving through the fluid flow path is regulated to hold negative pressure on the wound at a steady level while providing simultaneous aspiration and irrigation to the wound.”

Moreover, Applicants respectfully disagree with the Final Office Action’s assertion that atmosphere can act as a fluid reservoir. Final Office Action at 5. Applicants believe that “fluid reservoir” as recited in the claims would exclude the use of atmosphere as asserted by the Examiner. To advance prosecution, Applicants would be willing to amend the claims to further limit “fluid reservoir” to be an “enclosed fluid reservoir.”

Accordingly, Claim 15 is not anticipated by Lockwood. Because Claims 16, 18-19, 32-33, and 37 depend from Claim 15, Applicants submit that these claims are likewise allowable over the cited prior art, not only because they depend from an allowable base claim, but also because these claims recite a unique combination of features not disclosed, taught, or suggested by the cited art. For example, as explained below, because the Final Office Action fails to establish that Risk discloses or suggests dilating or constricting a vacuum line, in response to pressure sensed by pressure sensor, *during simultaneous aspiration and irrigation*, it does not establish that Lockwood alone or in combination with Risk discloses or suggests, *inter alia*, that “regulating fluid moving through the fluid flow path to hold negative pressure on the wound at a steady level while providing simultaneous aspiration and irrigation to the wound comprises monitoring negative pressure under the backing layer,” as is recited in Claim 32.

#### Claim 20

Furthermore, the Final Office Action fails to establish that Lockwood identically teaches every element of Claim 20. For the reasons stated above, the Final Office Action fails to establish that Lockwood discloses or suggests, *inter alia*, that “based on the monitored negative pressure, the regulator is configured to hold negative pressure on the wound at a steady level while simultaneous aspiration and irrigation is provided to the wound.”

To the extent the Final Office Action attempts to incorporate Risk into Lockwood, Risk discloses that “[a] proportional valve 130 is connected to line 126, through which the negative pressure is present, and which comprises a flow orifice 132. (See also FIG. 5.) Flow orifice 132 selectively dilates or constricts, thereby controlling the negative pressure level.” Risk [0057].

“Controller 850 operates proportional valve 130 via electrical line 864 in response to the pressure sensed by pressure sensor 124 to provide a desired negative pressure . . . .” Risk [0087]. The Final Office Action fails to establish that Risk discloses or suggests operating the proportional valve *during simultaneous aspiration and irrigation*. As a result, the Final Office Action fails to establish that Lockwood’s disclosure of connecting the vent line to the irrigation source can be combined with Risk’s disclosure of dilating or constricting a vacuum line in response to pressure sensed by pressure sensor to suggest, *inter alia*, that “based on the monitored negative pressure, the regulator is configured to hold negative pressure on the wound at a steady level while simultaneous aspiration and irrigation is provided to the wound.”

Because Claims 21-24, 26-28, and 31 depend from Claim 20, Applicants submit that these claims are likewise allowable over the cited prior art, not only because they depend from an allowable base claim, but also because these claims recite a unique combination of features not disclosed, taught, or suggested by the cited art. For example, the Final Office Action fails to establish that Lockwood discloses or suggests, *inter alia*, that “the regulator comprises a valve configured to vent the wound from the atmosphere,” as is recited in Claim 28. As explained above, the Final Office Action recognizes on page 11 that Lockwood does not disclose a regulator configured to be operable during simultaneous aspiration and irrigation.

For these reasons, Applicants respectfully request withdrawal of these rejections.

#### Claim Rejections under 35 U.S.C. § 103

The Final Office Action rejected Claims 29, 30, 34, and 35 as allegedly being unpatentable over Lockwood in view of U.S. Patent No. 6,071,267 (“Zamierowski”). Applicants respectfully traverse this rejection for the following reasons.

Because Claims 29 and 34 depend from Claims 15 and 20, Applicants submit that these claims are likewise allowable over the cited prior art, not only because they depend from allowable base claims, but also because these claims recite a unique combination of features not disclosed, taught, or suggested by the cited art. For example, the Final Office Action asserts that because Zamierowski discloses a vent tube, it would be within the knowledge of one skilled in the art to rearrange the pressure monitor of Risk to the vent tube of Zamierowski for the purpose of avoiding blocking the fluid flow path. Final Office Action at 11. However, the Final Office

Action fails to establish that Risk discloses or suggests sensing or regulating negative pressure *during simultaneous aspiration and irrigation*. Further, while Zamierowski discloses a vent in a “fluid conveyance subsystem,” Zamierowski at 4:41-6:11; Fig. 3, the Final Office Action fails to establish that Zamierowski discloses or suggests using the vent to monitor negative pressure or operating the vent for regulating negative pressure *during simultaneous aspiration and irrigation*.

Thus, the Final Office Action fails to establish that Risk’s disclosure of pressure sensor for dilating or constricting a vacuum line can be combined with Zamierowski’s disclosure of a vent to suggest, *inter alia*, the following limitations of Claim 29: “wherein, based on the monitored negative pressure, the regulator is configured to hold negative pressure on the wound at a steady level while simultaneous aspiration and irrigation is provided to the wound” and “wherein the pressure monitor is connected to a monitor offtake tube.” In addition, the Final Office Action fails to establish that Risk’s disclosure of pressure sensor for dilating or constricting a vacuum line can be combined with Zamierowski’s disclosure of a vent to suggest, *inter alia*, the following limitations of Claim 34: “wherein regulating fluid moving through the fluid flow path to hold negative pressure on the wound at a steady level while providing simultaneous aspiration and irrigation to the wound comprises monitoring negative pressure under the backing layer” and “wherein the negative pressure is monitored under the backing layer with a pressure monitor connected to a monitor offtake tube.” Further, the Final Office Action fails to establish that Lockwood cures these deficiencies.

Because Claims 30 and 35 depend from Claims 15 and 20, Applicants submit that these claims are likewise allowable over the cited prior art, not only because they depend from allowable base claims, but also because these claims recite a unique combination of features not disclosed, taught, or suggested by the cited art. For example, the Final Office Action asserts that it would be within knowledge of one of ordinary skill in the art to combine Lockwood with Zamierowski’s vent for the purpose of having fine adjustment controls over the pressure experienced by the wound. Final Office Action at 11. However, as explained above, the Final Office Action fails to establish that Risk discloses or suggests sensing, regulating, or providing fine adjustment controls over negative pressure *during simultaneous aspiration and irrigation*

or that Zamierowski discloses or suggests operating the vent for regulating negative pressure *during simultaneous aspiration and irrigation*.

Thus, the Final Office Action fails to establish that Risk's disclosure of pressure sensor for dilating or constricting a vacuum line can be combined with Zamierowski's disclosure of a vent to suggest, *inter alia*, the following limitations of Claim 30: "wherein, based on the monitored negative pressure, the regulator is configured to hold negative pressure on the wound at a steady level while simultaneous aspiration and irrigation is provided to the wound" and "a bleed regulator on a bleed tube connected to the monitor offtake tube and configured to regulate the rate of fluid that flows through the fluid offtake tube." In addition, the Final Office Action fails to establish that Risk's disclosure of pressure sensor for dilating or constricting a vacuum line can be combined with Zamierowski's disclosure of a vent to suggest, *inter alia*, the following limitations of Claim 35: "wherein regulating fluid moving through the fluid flow path to hold negative pressure on the wound at a steady level while providing simultaneous aspiration and irrigation to the wound comprises monitoring negative pressure under the backing layer" and "regulating the amount of fluid that flows through the fluid offtake tube by operating a bleed regulator on a bleed tube connected to the monitor offtake tube." Further, the Final Office Action fails to establish that Lockwood cures these deficiencies.

The Final Office Action rejected Claim 36 as allegedly being unpatentable over Lockwood. Because Claim 36 depends from Claim 15, Applicants submit that this claim is likewise allowable over the cited prior art, not only because it depends from allowable base claim, but also because this claim recite a unique combination of features not disclosed, taught, or suggested by the cited art. For example, the Final Office Action recognizes that Lockwood does not teach in the same embodiment that simultaneous aspiration and irrigation takes place with operating a bleed regulator. Final Office Action at 11. Applicants respectfully disagree with Final Office Action's assertion that it would have been obvious for one of ordinary skill to modify Lockwood's simultaneous aspiration/irrigation method with the added safety of a bleed regulator to prevent against pressures that are too high/low under the dressing. Final Office Action at 12. The Final Office Action fails to establish that Lockwood, or any of the cited references, disclose or suggest operating a bleed regulator *during simultaneous aspiration and irrigation*.

**Application No.:** 10/599722  
**Filing Date:** September 19, 2008

The Final Office Action rejected Claims 17 and 25 as allegedly being unpatentable over Lockwood in view of U.S. Patent No. 5,030,202 ("Harris"). Because Claims 17 and 25 depend from Claims 15 and 20, Applicants submit that these claims are likewise allowable over the cited prior art, not only because they depend from allowable base claims, but also because these claims recite a unique combination of features not disclosed, taught, or suggested by the cited art.

For these reasons, Applicants respectfully request withdrawal of these rejections.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 5, 2011

By: Vladislav Z. Teplitskiy/

Vladislav Z. Teplitskiy

Registration No. 68,069

Attorney of Record

Customer No. 20995

(949) 760-0404